IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 287 OF 2006

Ganesh Ramchandra Wade & Ors.. .... .. Applicants.

Versus

The State of Maharashtra. .... Respondent.

Mr. A.P.Mundargi with Mr. N.N.Patil
for the Applicants.

Ms. S. V. Gajre, APP for the State.

Mr. R. S. Thakur for Original Complainant.

CORAM : V. M. KANADE, J.

DATED : 15TH FEBRUARY, 2006.

P.C.:

Heard learned Counsel for the Applicants, learned Counsel for the original Complainant and the learned APP for the State.

2. This is an application for anticipatory bail filed by the Applicants who have apprehension that they are likely to be arrested in connection with the case which is registered at Mandva Police Station, Alibag vide C.R. No. 5/2006 for the offences under Sections 342, 397 and 504 of the Indian Penal Code.

2. It is the case of the Applicants that on 10th January, 2006 when the Applicant No.1 was on his way to his farm, the Complainant was riding his motor cycle - dashed the Applicant No.1 and as a result of which he sustained minor injuries and there was altercation between the two in which the golden chain which was owned by the Complainant fell down and the Complainant also sustained minor injuries. The Applicant No.1 filed a complaint immediately at the Mandva Police Station (Alibag) which is registered vide Motor Accident Register No.3/06 and a panchnama of the scene of the incident also was drawn by the police. It is submitted that the Applicants and the Complainant were belonging to rival faction and there was a long standing dispute between them on account of political rivalry between the two. It is submitted that the Complainant filed a complaint at Mandva Police Station (Alibag) at 7.00 p.m. on the same day bearing C. R. No.5/06 for the offence punishable under Sections 342, 397 and 504 of the Indian Penal Code. In the said complaint it was alleged that while the Complainant was riding his motor cycle and was passing near the house of the present Applicants, he was assaulted with stick and the gold chain and golden

ring and other gold ornaments which were owned by him were stolen. In the complaint, he has stated that the Applicants and the Complainant had certain dispute over the allocation of work to unemployed persons and in the said complaint it is stated that therefore the Applicants had assaulted the Complainant.

3. I have heard learned Counsel of both sides. In my view, the Applicants have made out a case for anticipatory bail. The record reveals that the Applicants had immediately filed a complaint at Mandva Police Station (Alibag) in which the entire incident was narrated. The Complainant on the other hand had stated that he went by rickshaw to Mandva and met his mother and thereafter he was advised to go to the hospital and after having gone to the hospital he went to the Mandva Police Station at 7.00 p.m. In the complaint, he has stated that on 6th January, 2006 he had submitted an application in the Gram Panchayat for the purpose of providing occupation to the poor people in the village and this was opposed by the Applicants. He has stated in the complaint that therefore keeping this grudge in their mind the Applicants had assaulted the Complainant. Perusal of the complaint itself reveals that this was the reason for assaulting the

Complainant. There was no reason they would steal the gold ornaments. Thus prima facie, it appears that the said allegations regarding removing the gold ornaments from the person of the complainant have been mentioned merely to involve the Applicants in a dacoity case under Section 395 of I.P.C. Admittedly, there was political rivalry between the two. The Applicants immediately had lodged complaint at 4.00 p.m. The Complainant on the other hand filed a complaint at 7.00 p.m. The injury certificate which is shown to me by the learned APP shows that all the injuries are simple and those injuries are at the right knee and left knee and abrasion below left lower eyelid. In the complaint filed by the Complainant he has stated that the Applicants had continuously assaulted with hard blows and stick. The injury certificate does not disclose that these injuries are caused by hard blows and stick. Under these circumstances, considering this contradiction in the complaint filed by the complainant and the medical certificate, a case has been made out for grant of anticipatory bail.

4. The Applicants, therefore, in the event of their arrest by the Mandva Police Station, Alibag, in connection with offence registered vide C.R. No.5/06

for the offences punishable under Sections 342 and 397 read with Section 504 of the Indian Penal Code may be released on bail in the sum of Rs.5,000/- each with one or two sureties in the like amount. The Applicants shall report to Mandva Police Station, Alibag, twice in the month and shall co-operate with the police in investigation.

5. This application is accordingly disposed of.

Sd/-

(V. M. KANADE, J.)